

**UTAH AIR QUALITY BOARD MEETING**  
**September 3, 2008**  
**168 North 1950 West, Room 101**  
**Salt Lake City, Utah 84116**

**FINAL MINUTES**

---

**I. Call-to-Order**

Ernie Wessman called the meeting to order at 1:33 p.m.

Board members present: Nan Bunker, Jim Horrocks, Ernest Wessman, Kathy Van Dame, Steve Sands, Joel Elstein, Rick Sprott, Wayne Samuelson, and Craig Petersen

Excused: Stead Burwell and Darrell Smith

Executive Secretary: Cheryl Heying

**II. Date of the Next Air Quality Board Meeting:** October 1, 2008, with a working Board lunch at noon presented by the DAQ Permitting Branch.

**III. Approval of the Minutes for August 6, 2008 Board Meeting.**

- Joel Elstein moved to approve the minutes of the August 6, 2008, Air Quality Board meeting. Nan Bunker seconded. The Board approved unanimously.

**IV. Local Health District Resolution. Presented by Cheryl Heying.**

Cheryl Heying, Executive Secretary, stated that in coordination with Fred Nelson the DAQ drafted a resolution to have a local health district representative sit at the DAQ Board table to participate in discussion.

Through Board discussion it was noted that the local health districts are involved in the maintenance of some air monitoring stations, they run the vehicle inspection/maintenance program in those counties where applicable, and the DAQ works with them on complaint response and community concerns of air emissions. They are also part of the notification and coordination of permit and compliance actions. Some issues the local health districts are not involved directly are regulating or implementation roles.

As previously discussed it may not be appropriate to have them sit in on adjudicative matters, but when appropriate the discussion would include input from the local health district representative. There will need to be some judgment as to when they are to be excused.

- Jim Horrocks moved to approve the resolution to appoint a representative of the local health districts to sit as a non-member in a non-voting capacity. Kathy Van Dame seconded. The Board approved unanimously.

**V. Final Adoption: Amend R307-328 Gasoline Transfer and Storage. Presented by Robert Clark.**

Robert Clark, Environmental Scientist at DAQ, stated on May 7, 2008, the Board proposed changes to R307-328 Gasoline Transfer and Storage and R307-342 Qualifications of Contractors and Test Procedures for Vapor Recovery Systems of Gasoline Delivery Trucks to extend Stage I vapor recovery requirements to all counties of Utah. In the case of R307-342 a non-substantive rule change was filed because only the title was changed. R307-328 requires gasoline transport vehicles, bulk plants, and service stations which receive gasoline from them to capture vapors released during transfer operations if monthly facility throughput exceeds 10,000 gallons in any one calendar month.

A 30-day public comment period was held and seven public hearings were conducted throughout the state. Meetings were held in Logan, Duchesne, Moab, Richfield, St. George, Nephi and Salt Lake City. Attendees at the hearings did not submit comments into record. However, following each presentation DAQ responded to general and technical questions regarding implementation, applicability, etc. of this rule

Written comments were received from John Hill of the Utah Petroleum Marketers & Retailers Association (UPMRA). A summary of his comments and DAQ's responses to those comments is included in the packet.

It was never DAQ's intention to put undue hardship on small private facilities so DAQ felt it appropriate to modify R307-328 to include only those facilities whose monthly throughput exceeds 10,000 gallons a month. This exempted 12 small private facilities with average throughputs of about 5,520 gallons per month each and 20 small commercial facilities with average throughputs of about 4,770 gallons per month each. Another modification to R307-328 was to adopt definitive federal language that more clearly defines submerged fill pipe requirements.

DAQ staff recommends adopting the revised rule R307-328 Gasoline Transfer and Storage.

Mr. Clark was asked if John Hill's comments that the proposed rule is stricter than the federal rule for Stage I vapor recovery from gas stations had been fully addressed and also, was the rule stricter? Mr. Clark replied that DAQ is trying to reduce volatile organic compounds (VOCs) in the transfer process and not trying to restrict hazardous air pollutants (HAPs). After consultation with legal counsel it was concluded that the federal reference referred strictly to HAPs. So the measure being proposed here is not in danger of being stricter than federal requirements.

Mr. Wessman introduced public comment from John Hill of the UPMRA.

Mr. Hill commented that while Mr. Clark was saying they are trying to control VOCs, they really are a product of what the federal guidelines were trying to control when they put limits on benzene and other HAPs. UPMRA would argue that the federal regulations should be applied in this situation. It is not just the under 10,000 gallons stations but the whole group of gas stations that are 10,000 to 100,000 gallons that aren't being addressed and that should not be required to go to Stage I. Mr. Hill then corrected the summary of his comment number three as written in DAQ's memorandum to the Board. The correct

statement should read, “In the spirit of compromise, a suggestion was made that UPMRA support the adoption of submerged drop tubes for all underground storage tanks (USTs), but concerns about tank tightness and the potential for leaks occurring directly below the drop tube have surfaced. Consequently, UPMRA remains firmly in favor of strictly following the federal guidelines.” Also, UPMRA is concerned that this item is over-reaching in that there are only six counties that are out of attainment and four of them have already been addressed with Stage I. UPMRA asks that the Board review this more to see whether the federal guidelines are being exceeded. However, if the Board chooses to move forward, they would ask that Stage I vapor recovery be applied on an as needed basis to the counties that exceed the EPA standards.

Discussion among the Board, DAQ, and Mr. Hill then followed. Some of the concerns discussed were the cost to stations to implement this program, the number of stations that would be affected that fall between 10,000 – 100,000 gallons, and the possibility that this is over-reaching relative to the federal requirements for HAPs.

Mr. Wessman summarized that although there is concern about cost, at the same time the impact of not being in attainment is also a serious economic problem. Efforts to exclude the smallest stations as well as the provision to give one year after the deadline to meet the requirement are steps in the right direction. If, better quantitative information about cost is found then there could possibly be a review and modification of the rule. Ozone precursors are a significant issue to be addressed and gasoline vapors are a big issue. It is the Board’s job to look at ways to improve the environment and reduce ozone because it will cost us economically in many ways, including public health.

- Rick Sprott moved to approve Final Adoption: Amend R307-328 Gasoline Transfer and Storage. Jim Horrocks seconded. The Board approved unanimously.

## **VI. Final Adoption: Amend R307-110 Regional Haze SIP. Presented by Colleen Delaney.**

Colleen Delaney, Environmental Scientist at DAQ, stated on June 4, 2008, the Board proposed amendments to Utah’s Regional Haze State Implementation Plan (SIP) to address changes to the federal regional haze rule that were published in 2006. A 30-day public comment period was held from July 1-31, 2008, and a public hearing was held on July 17, 2008. A summary of the comments and response to comments are included in the packet.

There were three main areas of comment. First, several commenter’s requested more detail regarding Utah’s best available retrofit technology (BART) analysis. Language was added to the SIP to provide more explanation regarding the process that Utah followed. The four BART eligible units meet or exceed the presumptive BART limits that were established in EPA’s rule, and DAQ relied on EPA’s extensive technical analysis to support those presumptive levels.

The second major area of comments applied to the reasonable progress requirements for Class I areas located in neighboring states. Language was added to the SIP to further clarify Utah’s approach that is based on emission reductions rather than modeling. Emissions of visibility impairing pollutants have decreased significantly throughout Utah, and these emission reductions will benefit all Class I areas that are affected by emissions

from Utah. SO<sub>2</sub> emissions will decrease 33% between 1996 and 2018. This is in addition to the substantial reductions in SO<sub>2</sub> that occurred between 1990 and 1996. NO<sub>x</sub> emissions will decrease 36% and PM<sub>2.5</sub> emissions will decrease 38% during this same time period.

Finally, EPA sent comments on the day that the Board proposed the Regional Haze SIP regarding the regional analysis that had been completed to demonstrate that the SO<sub>2</sub> milestones provide greater reasonable progress than BART. This analysis had been developed by the Western Regional Air Partnership over the last year and went through an extensive regional review process. The analysis is included in the technical support documents for the SIP and is included in the packet to better show the changes that were made in response to EPA's comments.

Staff recommends that the Board adopt the amendments to the Regional Haze SIP as shown in the packet.

James Schubach, Environmental Engineer at DAQ, responded to the question about what EPA's presumptive BART means by explaining that presumptive BART is an equivalent process analysis to a five factor analysis. A five factor analysis is a source by source evaluation of impacts in Class I areas for particular technological scenarios. EPA went through this process for about 420 sources, including two Hunter and two Huntington units, and essentially came up with the presumptive limits as an alternative. Because EPA essentially did the work up front, they mandated through Appendix Y to Part 51 that those sources actually meet the presumptive limits. It is the states discretion to determine if they want to go through a five factor analysis again, but it is not required. It is required that sources meet the presumptive limits.

Ms. Delaney added that the emission reductions achieved from the BART eligible units, Hunter and Huntington, are substantial. In looking at the comments they seemed to be focused on the process that was followed and not on the emission rates and the permit of levels of these plants.

- Kathy Van Dame moved to accept Final Adoption: Amend R307-110 Regional Haze SIP. Nan Bunker seconded. The Board approved unanimously.

## **VII. Final Adoption: Amend R307-250 Western Backstop Sulfur Dioxide Trading Program. Presented by Colleen Delaney.**

Ms. Delaney stated that this item is part of the package to support the Regional Haze SIP. On June 4, 2008, the Board proposed for comment amendments to R307-250 Western Backstop Sulfur Dioxide Trading Program. A public hearing was held on July 17, 2008, and a public comment period was held from July 1-31, 2008. Several comments were received and DAQ's responses to those comments are included in the packet. Staff recommends that R307-250 be adopted by the Board with changes as shown in the packet.

- Kathy Van Dame moved to adopt R307-250 Western Backstop Sulfur Dioxide Trading Program as proposed with changes. Joel Elstein seconded. The Board approved unanimously.

**VIII. Final Adoption: Amend R307-150 Emission Inventories. Presented by Colleen Delaney.**

Ms. Delaney stated that this item is part of the package to support the Regional Haze SIP. On June 4, 2008, the Board proposed for comment amendments to R307-150 Emission Inventories. A public comment period was held from July 1-31, 2008, and no comments were received on this proposal. Staff recommends that R307-150 be adopted as proposed.

- Steve Sands moved to approve Final Adoption: Amend R307-150 Emission Inventories. Nan Bunker seconded. The Board approved unanimously.

**IX. Propose for Public Comment: R307-121 General Requirements: Clean Fuel Vehicle Tax Credits. Presented by Mat Carlile.**

Mat Carlile, Energy Policy Coordinator at DAQ, stated that the Utah Legislature revised the authorizing statute for the State's clean fuel tax credit during the 2008 legislative session. DAQ staff have reviewed R307-121 and determined that some modifications are necessary to make it consistent with new legislation. Staff recommends that the Board propose the amended R307-121 for public comment.

- Jim Horrocks moved to propose for public comment the amended R307-121. Steve Sands seconded. The Board approved unanimously.

**X. Five-Year Review: R307-107: General Requirements: Unavoidable Breakdown. Presented by Kimberly Kreykes.**

Kimberly Kreykes, Environmental Planning Consultant at DAQ, stated that Title 63, Chapter 46a of the Utah Code requires all state agencies to review each of their rules at least every five years. This review verifies that the rules are still authorized by statute and necessary. DAQ staff has completed the five-year review for R307-107 General Requirements Unavoidable Breakdown. R307-107 was proposed for public comment once since the last five-year review. Given the adverse nature of the comments received and lack of consensus on the proposed rule, the Board decided to allow the proposal to lapse and maintain the existing unavoidable breakdown rule without changes. No other comments have been received since the last five-year review. R307-107 is necessary and should be continued to insure that excess emissions are properly reported so DAQ can take action to protect public health and require that operators do everything possible to reduce excess emissions. Staff recommends that the Board approve the attached forms to be filed with the Division of Administrative Rules (DAR).

It was noted that several non-substantive changes need to be made to the text of the attached form before filing with the DAR.

- Ernie Wessman moved to approve the five-year review of R307-328 after corrections to the text. Wayne Samuelson seconded. The Board approved unanimously.

## **XI. Informational Items.**

### **A. Sevier Power Company Appeal Update. Presented by Chris Stephens.**

Chris Stephens of the Attorney General's Office stated that last fall DAQ held hearings on the approval order issued to Sevier Power Company. Two requests for agency action were filed by Save Our Air and Resources and the Sierra Club which were denied by the Board. Both parties appealed to the Utah Court of Appeals who then certified both cases to the Supreme Court and are now pending. The cases are scheduled for oral argument in the Supreme Court on October 9, 2008.

### **B. PM<sub>2.5</sub> State Implementation Plan Update. Presented by Bryce Bird.**

Bryce Bird, Permitting Branch Manager at DAQ, stated that in December 2007 the Governor submitted recommendations to EPA for Utah's areas of designation under the revised PM<sub>2.5</sub> standard. Based on a nine-point process, DAQ recommended non-attainment areas in Cache Valley below 6,500 feet, in Weber County below 6,500 feet, all of Davis County, all of Salt Lake County, and Utah County below 6,500 feet. EPA reviewed DAQ's submittal and under the designation process did its own analysis. On August 18, 2008, the results of their assessment were sent to the Governor.

DAQ looked at other areas which had the potential to impact non-attainment areas as part of its consideration. Monitoring data, growth patterns, traffic patterns, and emission sources in those areas were looked at. DAQ's recommendations were based on the determination that monitoring data, especially in Box Elder and Tooele Counties, showed they were actually attaining the standard. In addition, a determination was made that the best way to develop a SIP for the Wasatch Front would be to separate Utah County as a separate non-attainment area from the Northern Wasatch Counties.

The results of EPA's analysis expanded on the non-attainment area recommended by DAQ to include portions of Box Elder and Tooele Counties. Also, as part of the Cache Valley attainment area, EPA made one non-attainment area for both Cache County in Utah and portions of Franklin County in Idaho. EPA also changed making the entire Wasatch Front as one non-attainment area.

EPA will now open a 30-day public comment period and DAQ will have 60 days to respond to EPA's letter.

The Board then discussed and asked questions on the PM<sub>2.5</sub> designations. Some points of concern that were addressed were who would have political control over the areas designated, how will it work with the combined area of Cache County and Franklin County, what was EPA's scientific data or basis for expanding the areas on the nine point test, and the need for a confirmation of the effective date to which DAQ needs to respond.

Mr. Wessman introduced public comment from Cindy King of the Utah Chapter of the Sierra Club.

Ms. King inquired as to why the Vernal station in Uintah County and the St. George station in Washington County were not counted in the PM<sub>10</sub> data for compliance and why they aren't on the EPA data base. Also, why were the federally funded stations shut down when trends showed that they might exceed trends similar to Wasatch County that were also non-attainment.

Ms. Heying responded that the two stations which Ms. King is referencing are no longer in operation, are not federal reference methods, and there is not three years of data available. Also, these monitors were for PM<sub>10</sub> and not PM<sub>2.5</sub>. Finally, these stations were not federally funded and were installed for a one-year study period. DAQ went back last year to do a survey study in Vernal to see how wide spread some of the inversions are at this point. The St. George station had particulate matter values well below the standard and so there was no need to continue monitoring in the St. George area. A new monitoring site for ozone was established and as is currently running in Santa Clara in Washington County.

Mr. Wessman introduced public comment from Susan Hardy of the Mountainland Association of Governments.

Ms. Hardy commented that from a transportation planner standpoint there are difficulties that may arise on this PM<sub>2.5</sub> issue in creating one air shed under two jurisdictions. For instance, if one area goes out of conformity then the other area cannot create a conforming plan until the other area gets back to conformity. Ms. Hardy would like DAQ to take this issue and the issue of efficiency into consideration when preparing a rebuttal to EPA.

Mr. Wessman introduced public comment from Eldon Bingham, Air Programs Coordinator with the Utah Department of Transportation (UDOT).

Mr. Bingham commented that with respect to the PM<sub>2.5</sub> non-attainment areas being proposed by EPA, they make a quick determination that there is no difference between the meteorology between Utah and Salt Lake Counties. It has been Mr. Bingham's experience that there is enough of a difference between these two counties and is a reason they should be maintained separately as two non-attainment areas. Mr. Bingham would like DAQ to take this perspective into consideration when commenting to EPA.

Ms. Heying concluded that there have been some meetings with UDOT and the different municipal planning organizations that will be affected by this decision to get their feedback. It is encouraged and important that individual agencies submit their comments to EPA during the 30-day public comment period.

**C. Air Toxics. Presented by Robert Ford.**

**D. Compliance. Presented by Jay Morris and Harold Burge.**

**E. Monitoring. Presented by Bob Dalley.**

Bob Dalley updated the Board on monitoring data. Mr. Dalley also informed the Board that the monitoring document that was out for public comment has been pulled because of some editorial corrections. Once the document is corrected a

new 30-day public comment period will be issued and notification with the new date will be posted on the DAQ webpage.

---

Meeting was adjourned at 3:00 p.m.

Minutes approved: October 1, 2008